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# Registry Procedures

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## COMPLAINTS

KRS 121.140

Upon receipt of a sworn, written complaint, the General Counsel is required to notify the alleged violator (respondent) that the complaint has been filed and the respondent has 15 days to provide a written response. The General Counsel then determines if there is reason to believe that a violation may have occurred or is about to occur. If the General Counsel finds that there is reason to believe that a violation may have occurred or is about to occur, an investigation will be conducted. Upon completion of the investigation, the General Counsel will make a report to the Registry, which will either make a probable cause determination on the basis of information obtained through the investigation, or may direct the General Counsel and respondent to submit briefs outlining the factual and legal issues involved prior to the probable cause determination. The respondent will be notified in writing of any action by the Registry.

If the Registry finds probable cause that a civil violation has occurred, the matter is referred to the General Counsel and Executive Director for conciliation with the respondent. A Conciliation Agreement may require the respondent to comply with one (1) or more of the following:

- Ø To cease and desist violation of the law;
- Ø To file required reports or other documents or information;
- Ø To pay a penalty not to exceed \$100 a day, up to a maximum total fine of \$5,000, for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or
- Ø To pay a penalty not to exceed \$5,000 per violation for acts of noncompliance with provisions contained in the law.

If a Conciliation Agreement is reached as to the appropriate penalty for the violation, and the Registry approves the agreement after payment of the penalty, no further action will be taken in the matter. However, if no Conciliation Agreement is reached, a hearing will be conducted before a retired or former judge or Justice appointed by the Chief Justice of the Kentucky Supreme Court. The judge shall render a decision, which, upon approval by the Registry, may order the respondent to comply with the same provisions discussed above. Conciliation Agreements and Final Orders of the Registry may be enforced in Franklin Circuit Court or other court of competent jurisdiction.

It should be noted that, pursuant to administrative regulations promulgated by the Registry, failure to comply with the reporting requirements contained in KRS 121.180 shall constitute prima facie evidence of probable cause to believe a violation has occurred, and the General Counsel and Executive Director may immediately enter into conciliation negotiations with the respondent.

### ***Referrals for Prosecution***

KRS 121.990

If the Registry determines that there is probable cause to believe that a knowing violation has occurred, the law requires that the violation be referred to the Attorney General for prosecution. A knowing violation constitutes a Class D felony. The Attorney General may request that the General Counsel for the Registry or the appropriate County or Commonwealth's Attorney prosecute the matter.

### ***Right to Appeal***

KRS 121.140(6)

Any person directly involved or affected by a final decision of the Registry, other than a referral for prosecution, may appeal the final decision within thirty (30) days after the date of the Registry's Order. Appeals may be brought in Franklin Circuit Court.

## **ADVISORY OPINIONS**

KRS 121.135

Any person or committee may request an Advisory Opinion from the Registry concerning the application of campaign finance laws or administrative regulations to a specific transaction or activity by the person or committee. Requests must be in writing, and must identify the person(s) involved in the specific activity. **General questions of interpretation or questions posing a hypothetical situation or regarding actions by a third party shall not be considered for an advisory opinion by the Registry.** The Registry is required to issue an Advisory Opinion within 30 days of receipt of the request, unless a candidate/committee requests an opinion no more than 30 days before an election at which they are to appear on the ballot. In that case, the Advisory Opinion must be issued within 20 days after the Registry receives the request.

An Advisory Opinion issued by the Registry is binding only as to the person or committee involved in the specific transaction or activity. If a person or committee to whom an Advisory Opinion has been issued acts in good faith in accordance with the terms of the opinion, it shall be a defense against any sanction provided by law or administrative regulation. It shall be no defense in any civil or criminal prosecution for a person to rely on an Advisory Opinion if he or she were not the party involved in the specific transaction or activity with respect to which the Advisory Opinion was rendered.

## PENALTIES

The penalties for knowing violations of KRS Chapter 121 and Chapter 121A may result in conviction of a Class D felony. Substantial civil penalties may also be assessed for non-knowing violations.

Corporations convicted of knowingly violating the campaign finance laws stand to have their corporate charters revoked or lose their ability to do business in Kentucky, and face substantial fines. In the case of knowing violations by individuals, a Class D felony conviction may result.

For specific penalty provisions see KRS 121.990 and 121A.990.

**Notes:**

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